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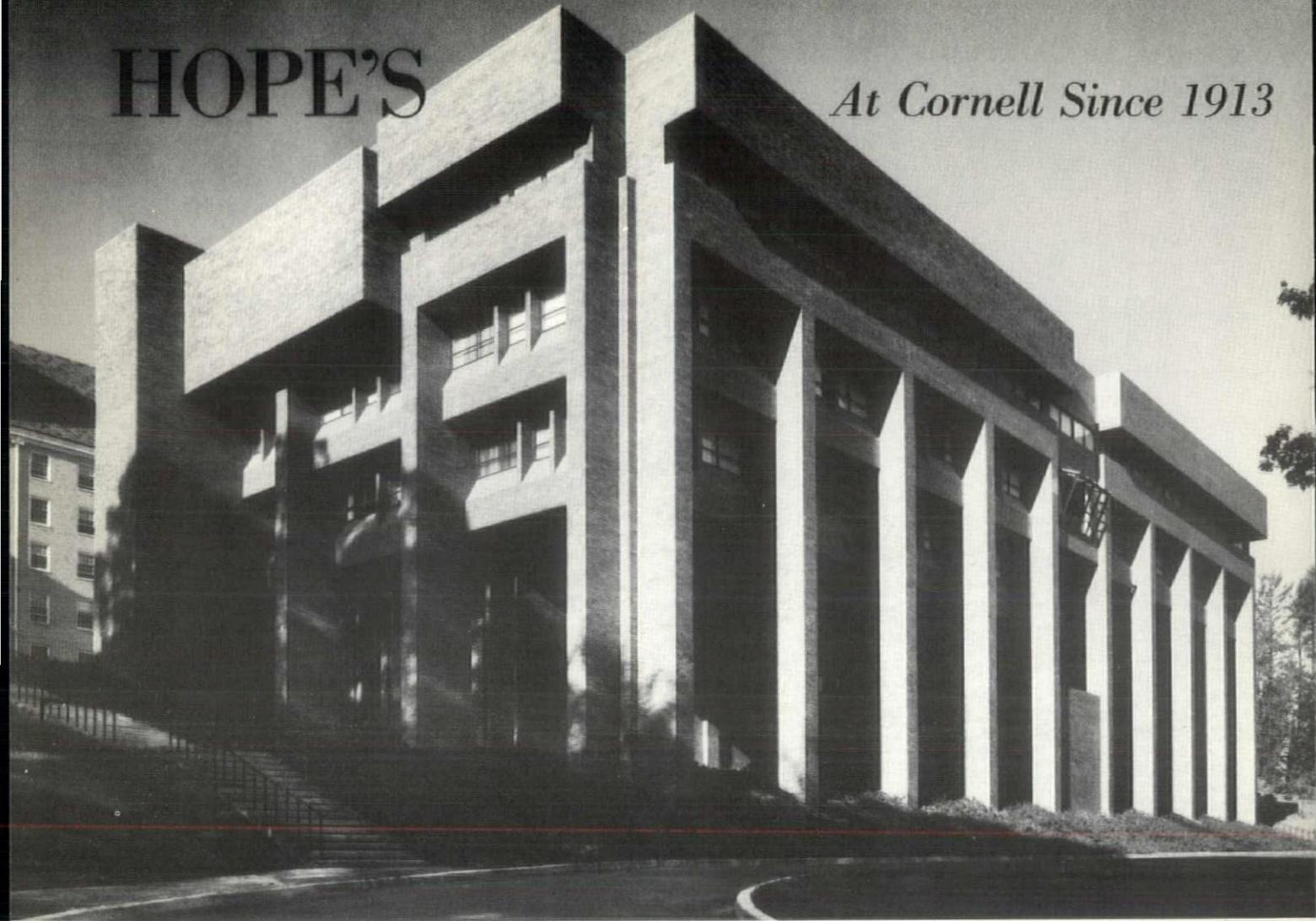


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1966 *Home Economics Building, Cornell University, Ithaca, New York*

Ulrich Franzen — Architect

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1959	Poultry Research Architect: New York State Department of Public Works
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EMPIRE STATE ARCHITECT

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NOVEMBER/DECEMBER 1969

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Second Class Postage paid at New York, New York.
Published six times a year. Annual Subscription: \$5.00;
per issue: \$1.25. Membership Issue \$10.00.

Postmaster: Please send form 3579 to Empire State
Architect, 50 East 42nd St., New York, N. Y. 10017.

from the morris chair

In this, the 1969 Post-Convention issue, we include transcripts of the two professional seminars on Competent Architectural Practice: I, Pre-Design Services, and Competent Architectural Practice; II, The Architect as an Environmental Planner.

One of the Convention events, the Student Seminar, which was particularly scheduled so that the students could have the opportunity to tell us why we are not relevant and not to be trusted, was disappointing. From this seat the tri-film show, "Motherhood, Applepie and Architecture," was a clever tour-de-force representing a lot of student thought and work, but it was disjointed (like the dictionary, good and erudite, but changed the subject too often). The stentorian music did not help. Mr. Roger Starr and Mrs. Arlene Young then spoke, but up to this point we architects were wondering why we were not relevant.

After this there was a blast of four-letter words from the podium (not Anglo-Saxon: they knew how to use them) which negated the whole wished-for concept of ideological give-and-take. If anything of meaning could come from this shambles, it might be that some of the youngsters might come to realize that their communications with the mature must be more mature.

In business sessions an increase in dues to twenty-five dollars was voted—a recognition that the increasing involvement and responsibility of NYSA in professional and legislative affairs does require a lot more money than heretofore. And revised, simplified By-Laws, as published in the July-August EMPIRE STATE ARCHITECT, were approved.

This Convention marked a new high in number and quality of educational exhibits. The Nevele presented an unusually practical and attractive area for the exhibit booths, and Convention attendees showed their appreciation by giving the exhibits a bigger play than ever before—and the exhibitors obviously were highly pleased.

This was also the most heavily attended in NYSA Convention history. The interesting program was a heavy factor in this, plus the logistical fact that the Catskills present the most convenient practical facilities for members throughout the state. And we should expect this sort of attendance to continue to increase in the next few years. The next two Conventions will be held in the Catskills—1970 at the Laurels, 1971 at Kutchers.

We would like to thank Jimmy Gambaro, FAIA, for his generosity in supplying some of the pictures published here.

To depart from the Convention, we would like some material on colleges and universities which our members think have solved particularly difficult problems or are of interest for various other reasons. The deadline for receipt is February 15, 1970.

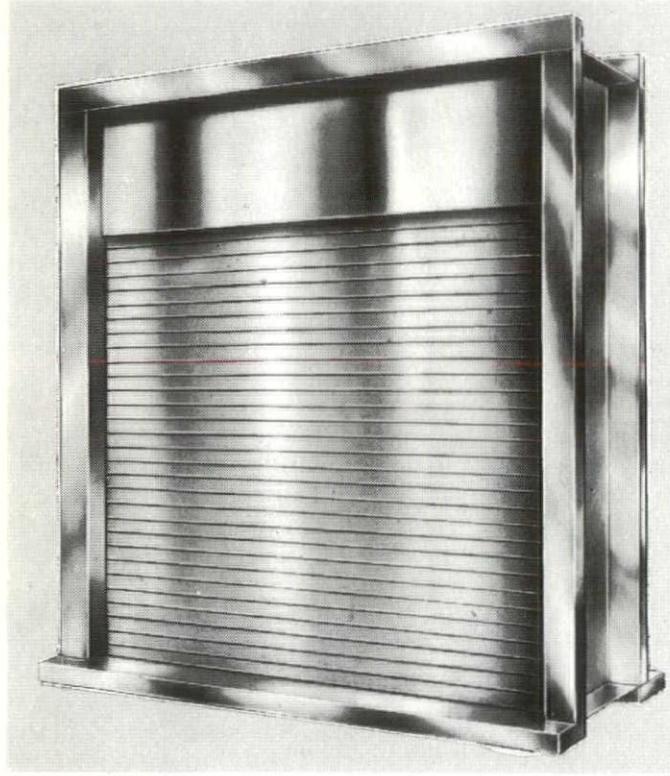
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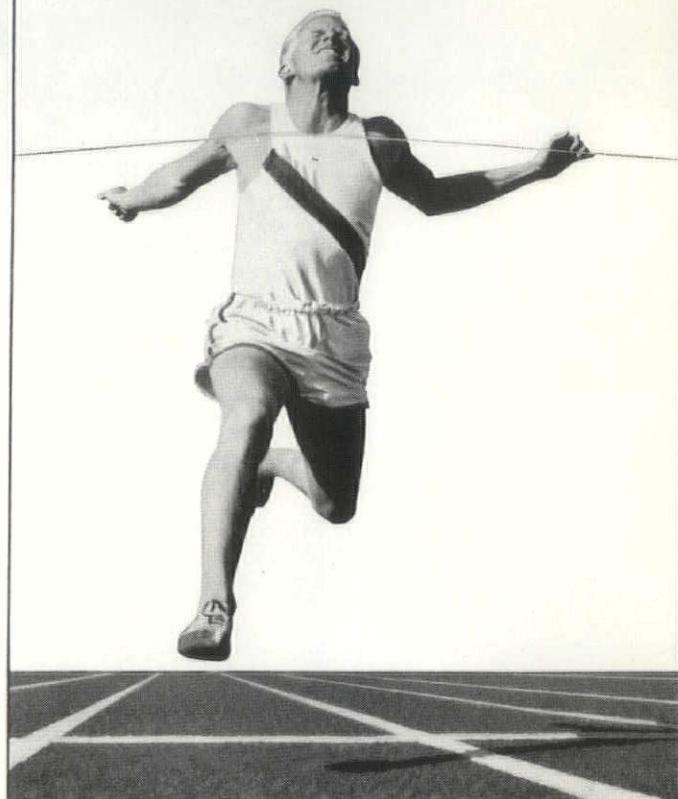
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A portfolio
of some notable
buildings mentioned
in this article.

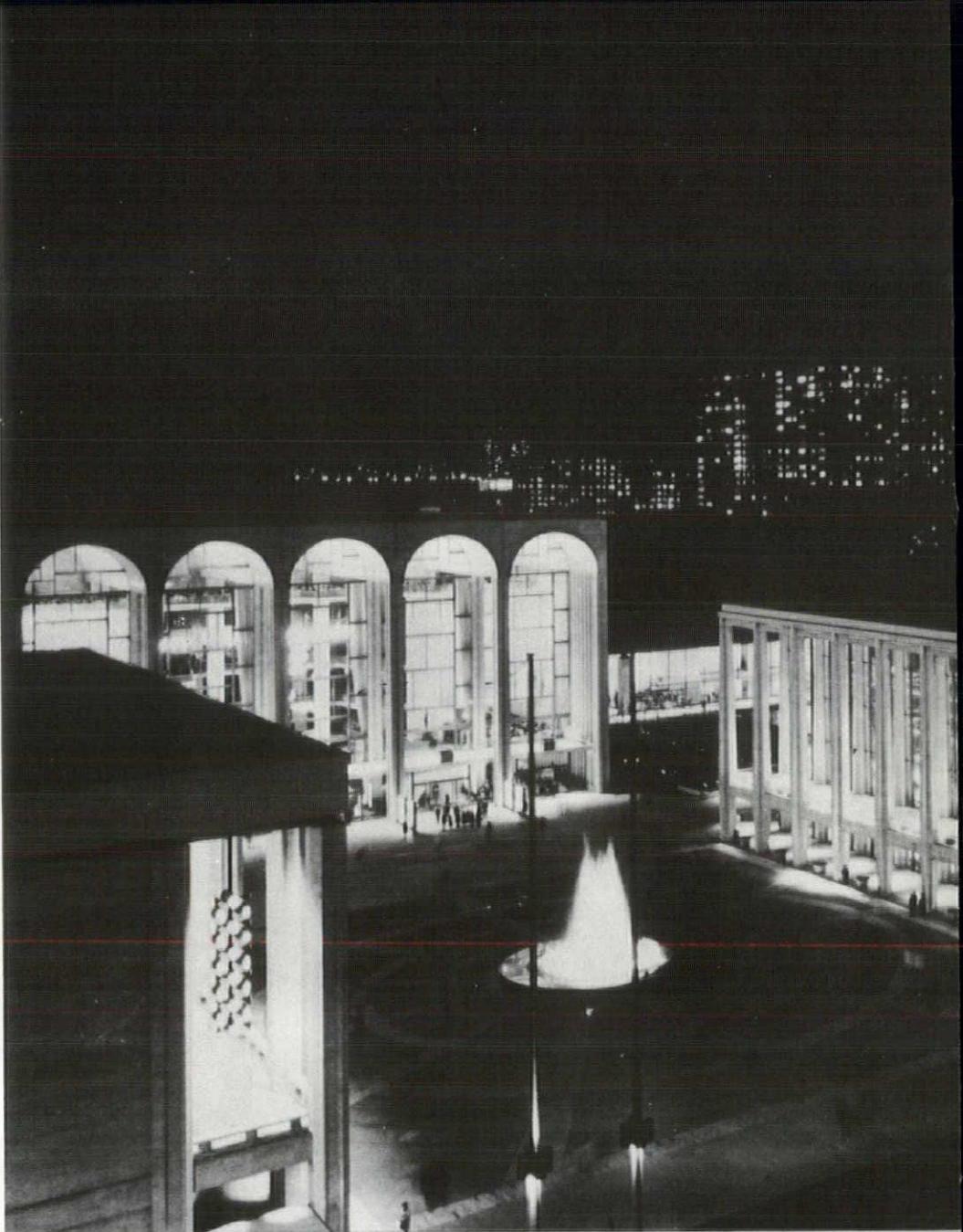


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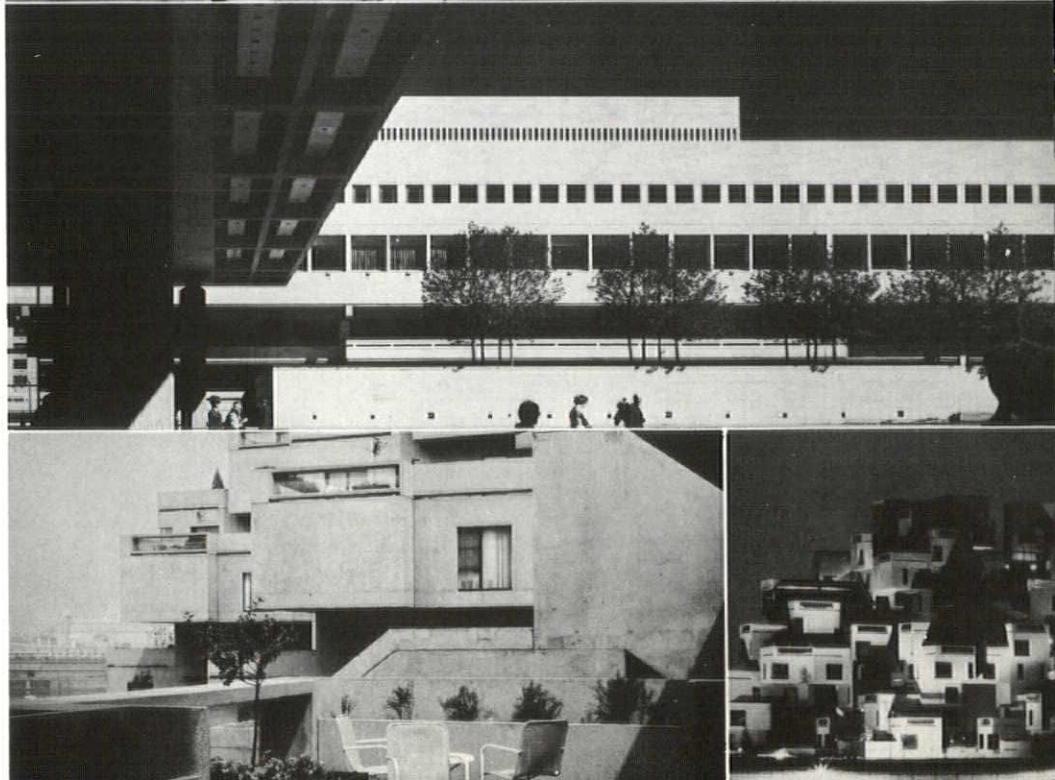


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by Joshua D. Lowenfish, AIA

Architecture, according to some authorities, is an art and science in the building of structures with "commodity, firmness and delight" (Vitruvius). These criteria in a multitude of variations and frills have been accepted as the architectural dogma. None indicates too much concern with costs and the environment, with both a small and a capital E.

However, in this age of swift transport, instantaneous communications, computerized industrialization, think-tank research, population explosion, urban congestion and an ever-growing series of gaps (race, generation, credibility etc.), the architect in planning can no longer ignore the environmental complexities and configurations unless he is willing to step aside and let others do the job.

Architecture's criteria, as old as Methuselah, ought to be broadened to include function, form, structure, cost and a thorough consideration of the environment. And if these elements make it well-nigh impossible for one man to master, then it may as well be agreed that architecture be looked upon as a joint venture of several disciplines and participants, each contributing a share to the complete whole.

What makes an architect and why the not-infrequent *prima donna* allusion?

Let us answer the last one first. Having been voluntarily or otherwise associated with art—"architecture, mother of all arts", "architecture is frozen music" and the old refrain that architects do not necessarily have to be crazy but if they are it helps—the impression is created that architects are temperamental, super-sensitive and in short supply of practical savvy.

In looking over the list of architectural giants, past and present, one can indeed discern some justification for such an image. Let us hear them:

"The architect is not in the clients' employ, but they in his, to provide the means for his expression"—EDS

"Brutality and savagery do not necessarily displease me. For it is thus that all great work must begin—with strength"—LC

"Concrete makes it possible for an architect to build an unconcerned structure around the mechanical necessities of a building . . . the integration of the mechanical, electrical and architectural—this is beginning of new shapes."—LIK

Surely such diversified statements are not intended to inspire confidence in the construction industry.

And what about the great masters who confuse themselves and others with constant gobbledegook? Does it enhance their relation with potential clients? Listen:

"And the thing is that we should get a great spring-board to start from, to take architecture into account as the thing we are calling organic architecture . . . organic can merely mean something biological, but if you are going to take the word organic into your consciousness as concerned with entities, something in which the part is the whole as the whole is the part, and which is all devoted to a purpose consistently, then you have something that can live, because that is vital"—FLW

Once confined to Madison Avenue, jargon and similar forms of linguistic obfuscation have now become as pervasive as land, air, sound, water and mental pollution. Do such aberrations make architects more palatable or accessible to their clients? Decidedly not.

And what about some whopping differences between estimates and actual costs—a source of grave friction between the architects and builders? Here are a few:

Habitat at Expo 67, estimated at \$11.5 million, cost \$23 million or over \$200 thousand per dwelling unit.

Lincoln Center, N. Y., estimated at \$75 million, cost \$164.5 million.

South Mall in Albany, estimated at \$350 million, will cost about \$1 billion by the time it is completed, and the U. S. Capitol extension on the east side, estimated at \$18.2 million, cost \$34 million—a staggering \$178 per square foot.

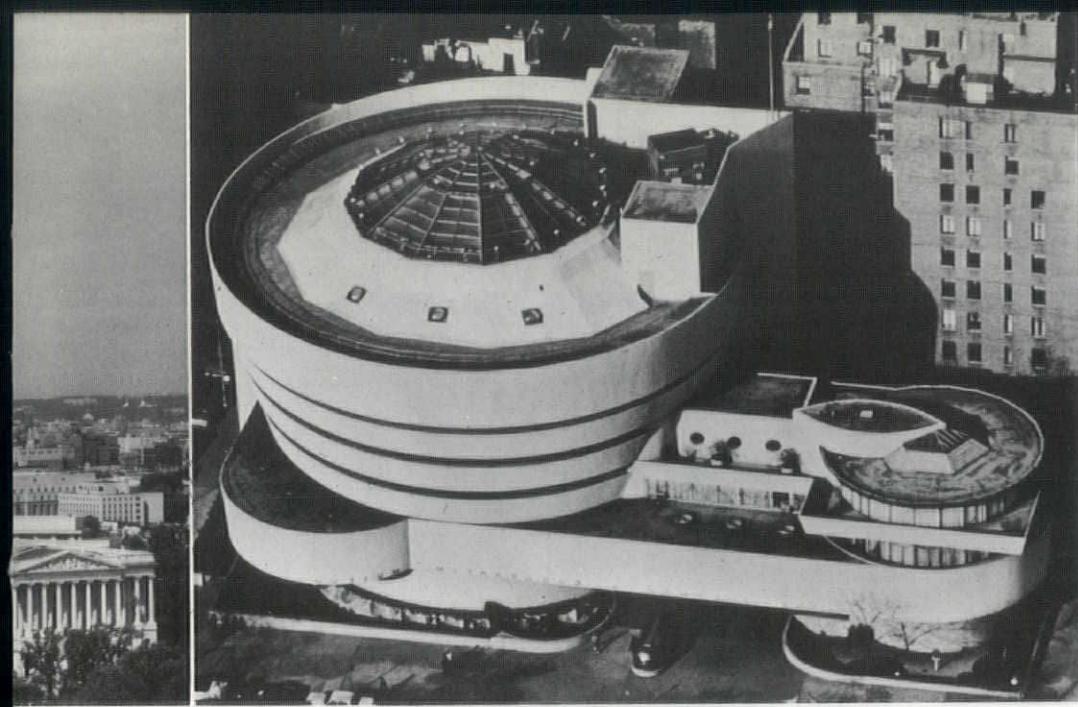
One other facet helps estrange the architects from their clients, namely, that of the falsely-spread notion that good design is more expensive than mediocre. Time and again we hear the masters sound off about the need to spend more money for good architecture. Here you are:

"If you want me to build your home, you shouldn't think of it unless you don't worry about costs"—EDS

"An architect who doesn't go over his budget isn't doing his job"—FLW

So the architects, it seems, go out of their way to gain the impression of being impractical *prima donnas* and dilettante day-dreamers. And with what consequence? Over 90% of building construction is accomplished without the aid of architects, which, by the way, is a partial answer to the perplexing question of "how come our man-made environment is so terribly hectic and ugly?"

No, good architecture does not require spending of extra money but it does require practical and creative



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ability. In this category we cite the recently completed \$3.5 million Emerson Museum of Arts in Syracuse, N. Y.; the \$2.3 million University Concert Hall in Albuquerque, N. M.; and the \$6.7 million Jesse H. Jones Hall for Performing Arts in Houston, Texas.

Unfortunately, the better architecture at no extra cost has not sufficiently penetrated the rank and file of the building industry.

And what makes an architect?

Aside from possessing a degree and a license, an architect worth his salt is a professional to whom society and its well-being are of paramount importance and one who is deeply concerned with the establishment of a better environment. And how many of the 30,000 living American architects are of such persuasion? Not enough.

The time-honored system of open competitions for the purpose of selecting architects is in disrepute. The young graduates who had thus a chance to demonstrate their creative ability are either swallowed by mega-offices, get teaching jobs, become governmental careerists or sell bolts and nuts.

To summarize—an ideal architect is a professional who gives a damn for the broad aspects of the environment, who possesses technical skills, creative ability and practical know-how. Also one who can articulate these qualities and inspire confidence in the construction industry and the public at large.

Environment with a small e, aside from an individual project, involves consideration of surrounding neighborhood and the social context of man in space, time and motion.

It is gratifying to note that when the design for the expansion of the A.I.A. headquarters in Washington, D.C., was submitted for approval to the National Fine Arts Commission, it was repeatedly rejected on the ground that it was "too domineering and out of keeping with the feeling of the Octagon House," and when an unscrupulous builder with the aid of a famous architect proposed yet another tower on top of the Grand Central Station in Manhattan—aggravating traffic congestion and air pollution in an already critical area—it was turned down once and again by the city's Landmark Preservation Commission.

These and a few other salutary actions of restraint are outweighed, however, by thousands of environmental outrages that go unnoticed and unhampered with resulting ugliness and chaos.

Environment with a capital E entails the world in its

natural and man-made form and the interplay of one on the other. This interplay can be left alone to mutate like a dreadful malady or it can be planned and controlled toward an orderly growth and beneficial existence.

U.S.A., a country of over 200 million inhabitants, with an annual gross national income approaching a trillion dollars, is divided into 50 state governments, 17,150 townships, 3,049 counties, 21,782 school districts and 21,264 special-purpose districts. All of these 81,250 entities make up what we claim to know and love as local self-government; but are we truly a collection of these many mini-sovereignties or are we a part of a single national government with appropriate administrative subdivisions? A pyramidal organization certainly bids for recognition.

Present-day attention is focused on the plight and decay of the environment and especially that of the large city ghettos, without accepting the fact that the galloping deterioration was caused by a planless industrialization of the farms causing an avalanche of rural migration into the cities. And the cities with an archaic philosophy of government go merrily on, seeing nothing wrong until a deluge of resentment is manifested by riots and wanton destruction of life and property.

"Our leaders have been trying to create a substitute life out of the machine, and have subordinated the character of the landscape and the needs of its inhabitants to the dynamics of mass production and the exploitation of technological power, treated as if this were a valid human end in itself . . . the machine worshippers show their hatred of nature by turning every landscape into an urbanoid wasteland, paved with multilane motorways, parking lots and clover-leaves, with rubbish dumps and motorcar cemeteries, in which buildings, low and high, are thrown almost at random without respect to any human purpose except to absorb the product of expanding economy, whose affluence so largely takes the form of original waste . . . In depths of individual soul, we must attempt to transcend the limitations of our time and our place by seeking what is eternal and divine—addressing ourselves to possibilities still unplumbed and to ideals that have still to emerge."—Lewis Mumford

For its own sake and that of a better world, it is hoped that the architectural profession will unequivocally and passionately embrace the much-neglected environmental crisis. □

news & views

**NYSAA
31st ANNUAL CONVENTION
OCTOBER 20-23 1969**



Top, left, President Albert Melniker, AIA, accepts his new job. Right, Someone must have told a good one to Dickson McKenna, AIA, and Dave and Suzanne Todd. Above, To show it all wasn't a party Robert W. Crozier, AIA, Albert Melniker, AIA, Darrel D. Rippeteau, AIA, and Guy H. Baldwin, AIA, meet in solemn session.



Above, Herbert and Bernice Epstein, and Karl and Valerie Greenfield don their glad rags in celebration. Bottom, left, The NYSAA brass gets together, Albert Melniker, AIA, President NYSAA; Max O. Urbahn, FAIA, Director, N. Y. District AIA and Darrel D. Rippeteau, AIA, immediate Past President, NYSSA, newly elected, Regional Director, N. Y. District, AIA for 1970-1973. Right, Hon. Richard L. Ottinger, U.S. Congressman, 25th District of New York State; Darrel D. Rippeteau, AIA and Dean Bernard Spring, AIA, School of Architecture, City College of N. Y. plot a little top-level strategy.

RIPPETEAU BECOMES NEW REGIONAL DIRECTOR



Darrel D. Rippeteau, AIA, was elected Regional Director for the New York Region at the 1969 NYSAA Convention. He is immediate Past President of NYSAA and will serve on the Board of The American Institute of Architects for a term of three years, succeeding Past Regional Director Max O. Urbahn, FAIA. Mr. Rippeteau is a partner in Sargent, Webster, Crenshaw and Folley, Architects. □

NYSAA 1969 CONVENTION PROFESSIONAL SEMINAR: PRE-DESIGN ARCHITECTURAL SERVICES

Moderator—George M. White, AIA, Vice President, The American Institute of Architects; Panelists—Dr. Anthony Adinolfi, General Manager, State University Construction Fund; Allan Schwartzman, AIA; Howard H. Juster, AIA; Stephen A. Kliment, AIA

MODERATOR WHITE: The subject of pre-design services is really a misnomer. What we are talking about are those things which in the classical practice of architecture the owner did. He came to the architect after having decided he wanted a building three stories high or forty stories high on this piece of

property and said, "Here, put it together for me," and the architect started with a given set of circumstances. We are now faced with the need for the architect to assume some of this responsibility. Perhaps this is because the complexities are so advanced that the owner no longer has sufficient knowledge or capacity on his own and must seek it from someone else—if not the architect, then some other individual. Perhaps in some cases the other individual is the one the architect needs to see in order to answer the owner.

In any event, this is the basic subject matter of the seminar this morning, and it is divided into four basic sections. The first will be a broad-brush approach; the second will be some examples of current activity of a firm that is doing this; the third will be a discussion of programming; and the fourth will be a presentation of a client's view of this process.

PANELIST JUSTER: I imagine a "broad brush approach" means saying nothing about everything, which I will try to do in ten minutes. I would echo what George White said about pre-design services. I think the term is a misnomer because it is obvious that the programming and planning and all the things that make up the pre-design services have a great deal to do with the design of the environment and the shaping of the environment.

Let's start with marketing survey, because it is the most general. I would classify it as actually the definition of the basic determinants of a project: What objectives will there be? What is the project used for? What is the scope and quantity? What sort of economic and social relationship will it have with the environment? It might be anything: an educational survey to determine how curricula might be developed for an educational complex; a commercial survey to determine what stores might be put into a shopping center; a housing survey to determine what sort of houses should be put in. This might be done by anyone from a market analyst in real estate to an educational or medical consultant.

After the basic survey results are complete, the details of the problem are then examined—the various facilities that people use, frequency of use and all the things that determine the size and relationship of space that is needed to house all these necessary activities. And then the various feasibility studies—financial and site—which are related to marketing and financing—and a whole variety of master and long-range plans ranging from individual buildings or individual systems to comprehensive systems, such as college campuses, industrial and commercial complexes, housing, recreational and cultural systems, transportation systems and the design of communities.

What are some of the reasons for this planning? Plans are needed to define the problem, to establish the need, to provide a general overview of a situation before a specific commitment is made by either investor or public. They really provide the reference to the next largest system with which the immediate project must eventually relate. They establish priorities. Over a period of time an orderly pattern of growth emerges which may change but nevertheless can form a basis for future development. Also, planning with existing facilities provides a system that will minimize disturbance to continuing changes.

One simple thing it does provide is a current inventory of existing conditions and an establishment of short and long-range requirements.

In all cases, much of this pre-design work we are doing or are about to embark on gives us an opportunity to formulate broad objectives and have an idea regarding the philosophical objectives of our individual

projects.

Who does these master plans and these environmental design services? The team. There's the architect, the mechanical engineer and the structural engineer—these are the orthodox consultants. The traffic engineer, the real estate consultant, the site planner, the market analyst, the financial analyst, the sociologist, the psychologist, the economist, the medical consultant and the space analyst. Finally, becoming increasingly more important as a dynamic member of the team is the client, and it's not the single, simple client. It's the multiple-dimensional client, who may be in four or five parts, who gets the program under way—whose manager and/or financer combined or separate has the responsibility for seeing the project through. Also are involved are the operators, the people who will run the building, and the users, who may range all the way from individuals to corporations or committees.

This raises the question, at least as far as our practice is concerned in the future, of (1) whether we as architects are going to try to develop these as in-house resources; (2) whether we could best do it as a joint venture, putting together necessary talents for each project; or (3) whether we should form design conglomerates, which in a way is the combination of the first two.

I won't try to answer which is the best—I have had experience with all three. All have their pros and cons.

What are some of the consequences of this pre-design service that we are getting into? What kind of problems will it present? How will it change our thinking, our attitudes and our practice?

Under the pre-design concept design decisions will start from the very inception of projects. Making a market study or writing a program will have great influence on the final shape and form. We will continue through the completion of construction; we will modify things and continue thereafter. Ironically, this is the way building went on in the Middle Ages. We are coming back with a lot more sophistication.

We will have a changing but reliable basis for continuing development and for future projections. This will require a degree of specialization. We will have to rely on the expertise of consultants and advisors who are very intimately familiar with particular specialties. Under these conditions we must be willing, as architects, to accept the concept of rotating leadership within a system of comprehensive and comprehending guidance on our part.

In facing the requirements for comprehensive information and techniques of knowledge transference, we will be tackling things for which we have no precedent. We will have to take fundamental knowledge from one another and shift it quickly. This will require development of data banks and rapid retrieval systems. There are people working on this sort of development now through pattern symbols and computer graphics which I think are exciting.

In accepting this challenge we will certainly have an opportunity to make a lot more impact on the environment. We will need changes in attitude, social commitments, and most of all a spirit of adventure, for there is no precedent for what we are about to experience.

PANELIST KLIMENT: I want to talk about five specific experiences in pre-design services that Caudill Rowlett Scott has become involved in, to show first that it can be done, and second to bring some facts into what is a slogan-ridden climate so far as pre-design services are concerned, and to show some of the opportunities and pitfalls involved.

There are five areas of discussion. The first is management of two school building programs in two major eastern cities, with a combined total of \$135 million of construction; the second is a typical programming operation of a medium-sized western hospital; the third is the testing of a given program for a very complicated teaching hospital; the fourth is the development of the application of two sections of the Federal Housing Act to see how they can be applied in a specific situation; and the fifth is the promotion of development of building systems in conjunction with a building project manufacturer.

The management service for the school building program in two eastern cities in a way seems to us to be one of the most fascinating possibilities of all. The first involves an old core city in southern New England. In 1966 the first-phase building program was decided upon; 9,400 student stations were involved: two elementary schools, three middle schools and one high school, a total of about \$52 million.

The problem was a very difficult one because the city involved is one that has virtually no vacant land at all. In order to carry out this very large construction the land has to be acquired, over 500 families and about 60 businesses have to be relocated.

Caudill Rowlett Scott was retained first as the master architect and second—this is the area that is very exciting—the decision-making process in a fairly complicated environment—to plan and design the six schools.

The reason it was complicated was because of the make-up of the client—the multiple city departments and agencies; multiple school administration departments; the state department of education, and the various private agencies who became involved in pushing the program forward. Each of these groups has programs and policies. On top of this there is the great pressure to complete the project fast both because of the need for the facilities and the escalating cost of construction.

Let me itemize three very specific services which were part of this general program. First was the complicated one of evaluating and selecting sites for the schools. Second was the matter of cost control or cost management. We were retained to provide the city with continuously updated project costs on the six schools and to provide bases for evaluating various trade-offs in the decision-making process. For example, if more expensive solutions were being considered, information on the need for field personnel, operating cost and so forth had to be supplied.

And third, cost management became very closely involved with the package of the six projects in the city construction market. In one very specific area of site selection and cost management, we drew up special studies for the food service with the school administration, which finally ended up in a series of decentralized dining areas involving a system of pre-packaged, pre-portioned frozen food distributing areas.

In working with the using authority, the school administration, and finally the chamber of commerce and other private groups who were important elements in the development of this program, we found it important to develop considerable political "savvy" and sensitivity in working with both agencies and individuals.

The second of the school management programs was a purer version of pre-design services because, in the second project in a very large metropolis on the east coast we were not involved with the architecture at all—this was a pure management commission. And the interesting thing about it was, and this should be

heartening to all of us, we were in competition with four management firms in obtaining this contract, none of whom are architects. We were the only architects considered and the city decided to give the management contract to us rather than to the others.

Our assignment there is basically to get a school construction program going—to work with the city and school authorities in developing expertise in the form of manuals, guidelines and criteria to be followed in terms of selecting architects, developing specific programs for specific schools and carrying the jobs on all the way from schematic design through construction and administration.

The second specific project is programming a master plan in architecture for a medium-sized hospital in Arizona. We send a team of about four or five people, headed by the project manager, to the site for a very intensive information-gathering session with the client. First of all, we urged the client to determine in his own mind the goals for this particular project, to proceed with the selection and organization of the facts, and to identify the concept that is going to determine and guide the design of the project.

The next step involves determining needs in terms of space, quality, construction and time. And the final step is to state the problem to be solved.

The third project involved the testing of a program package that had been developed by others, using in this case a fairly basic but valid form of beginning technique. In this particular case a program was handed to us and to an associated firm of management consultants to develop a major Veterans Administration Hospital in the southwest. The Public Health Service had a program for the project, and our associate was to break it down into functional packages—health care, research, departments, work stations and staff requirements. At this point CRS came on the scene and our job was, again in association with the management firm, to re-integrate all these sub-systems and sub-sub systems into a program which could then be handed to the architect to design the hospital. In the case of a hospital, an enormous amount of information is involved.

In testing the validity of our information and progress, we and the associate pretended to be patients, doctors, nurses, radiologists or the other specialists in putting together the various elements necessary to a hospital's operations.

Finally all the basic requirements were met, and it was decided to develop a mathematical model and a physically functional model, as opposed to a design model, which then constituted the basic program.

The fourth and fifth areas are presented just to illustrate the kind of areas in pre-design that a firm can become involved with. One is the evaluation of the applications of certain key sections of the Federal Housing Act, in this case Sections 235 and 236. This uncovered some very interesting influences—behavioral sciences and community involvement, and necessitated the use of a computer to sort out and classify the enormous amounts of information involved.

In this particular instance some of the lessons we learned—the tremendous impact of community sentiment in any solution or application of the housing act. The solution has to conform with community sentiment; otherwise it just won't work.

Our fifth and last area is that of encouraging, promoting, causing the manufacturers of building products to really catch up with some of the advance thinking that is going on in the profession, and that is not to work so hard to develop a new or better product but

to work harder to come up with a product which the architect can use and merely plug into the general design process. One of the most difficult things that the manufacturer will face in the years ahead will be trying to sell a product to an architect merely based on the product's intrinsic merits. In order to cause an architect to specify a product, manufacturers will have to go a great deal further in showing how it could be plugged into a general design system.

The conclusion which I think ties these five areas together is that we are really broaching new ground here and it is not always easy the first time around. Community interaction and political influences are always unpredictable, and architects must realize this and become involved on a professional rather than an amateur basis.

I can't reinforce enough what others have said—that the image of the architect as a designer is really quite obsolete; not only obsolete but truly very dangerous. The architect has to think of himself not as a designer but as a problem-solver. Taking the plunge into some of the pre-design services is a risk, but both for the architect and the user it is immensely rewarding.

PANELIST SCHWARTZMAN: The area of programming I am going to touch on is one which probably is more within the grasp of the smaller office and the smaller practitioner and, in effect, any architect who really wishes to grasp this expertise. There is a systematic approach to programming, and the programming that I am referring to is in this context a pre-design service.

What I am going to start out to say is very basic. The programming work which is being done in our office, for example, seems to be so very logical that all architects should be very successful in doing it as well as anyone else. I say that because there are firms involved in programming today, many of whom may not have any architectural background or architectural staff.

Our firm recently received a call from a California company which was involved in programming, asking whether or not we would be interested in providing architectural services for a large corporation in the west. We said we would be delighted, and when the head of the company came to our office we found that his firm had in effect pre-empted most of what we would be interested in doing as architects.

In effect, what the programmers had done was to work out much more than just a functional program or a space program for the client. They had worked out a whole building system for the client, and these were non-architects. We think that certainly architects should be willing to provide programs as a service to a client and not sit back and wait for a programming firm to come up with a package which may have crystallized a design to the point where the architect as such would have very little flexibility in carrying on from that point. Pre-design, in such cases, turns out to be design as such.

Our approach is one wherein we try to identify the activities that the client is interested in housing. And in doing so we are also interested in being able to get down to a point of specifying very closely in what types of spaces each of these activities must be confined.

We are interested also in relating the activities to the people who are going to use these activities and spaces. The term "user requirement" then comes in. What we are doing is developing a functional program. But we are doing it in a way in which we will actually set down a series of statements which are going to be positive or possibly negative statements, which are

going to express relationships and points of view. There are definite requirements that users have, and we might be able to state them negatively as the user does not want to have access to particular space.

We are at this point able to evaluate information and get approvals on particular points or resolve what may turn out to be conflicts. The resolution of conflicting requirements is a critical point, and after we have been able to identify the conflicts which may be inherent in the requirements and statements which have been made, we are able in resolving these requirements to be able to have the user set priorities on their various uses.

The setting of priorities is going to give us a tool which will enable us to almost start into the design process without actually completing what would be a program. This is done with the eventual idea of establishing user requirements in order to establish priorities for these requirements dealing with functional relationships primarily. We are able to measure the validity of a design. The most initial primary scheme that might be developed may be evaluated by referring back to these requirements. When the client reviews the scheme he may find some of the requirements and priorities he has set up may actually turn out not to be what he thought and at that point he can revise his requirements and priorities.

Essentially we find that this is a very useful tool in terms of advocacy planning. Trying to get resolution of requirements of a community of users is no easy task, but when such resolutions are made and priorities are given, it is possible to come up with a physical design solution and to be able to evaluate that solution against these requirements. There is an evaluation system where you can actually use a point score in evaluation of various physical solutions to a design problem. This is getting beyond the pre-design and into the measurement of design.

PANELIST ADINOLFI: Most of the time we use up in the development process is really in the pre-design period. I say that because the unique reason for architects being involved in the development process is that they have unique capacity to design so that the environment that is created is worth having. It is for that reason that I think architects are asked to participate in what we call pre-design phases.

In a way I'll summarize all of the remarks I'm going to make by saying by far the single most important thing that an architect can do in the pre-design period is to be absolutely sure he understands how the client operates in every way, so that he can fill any of the gaps that exist in the way that the client operates.

Another very significant pre-design service that an architect ought to be prepared to provide is in the education of the client: what the architect-client relationship is all about. Most architects in my experience slide over that obligation or service at the first sign of resistance from the client. I can't emphasize enough the need to be prepared to spend time and provide that time in your office structure; to have, under whatever are the most favorable circumstances that you can manage, an opportunity to educate the client, either if he has the kind of personality that permits you to do it directly or indirectly if he doesn't know what the architect-client relationship is and what it should be.

Another very important service that an architect ought to perform in pre-design is to be absolutely clear as to what the client's objectives are. What are the client's objectives in terms of money. Don't get into a position where you find yourself accusing your client of being disinterested in great architecture or in the

creation of great environment simply because he can't find any more money.

So what I'm urging is that you be absolutely clear, in the pre-design period, as to what the client's objectives are, so that you can organize the job to serve his comprehensive objectives.

There is a diminishing number of single-building clients. The amalgamation of resources is forcing bigger and bigger clients on architects so that the service an architect performed for the single-building client whose over-riding objective was the building itself is almost a thing of the past.

The comprehensive understanding of all the objectives of the client takes time, and time has an influence on your office practice and your office structure. You have to make some of your budget for that project available, to permit you to undertake this effort. If the architect does not, as many do not, take the time to understand in a complete way the decision-making process of the client, he will find himself in a position of not only not serving the client well, but he will not be serving the profession's or society's aspirations because he may be discredited long before the key decisions have been made, and his right to make key decisions will be usurped by the client. □

NYSAA ELECTS NEW OFFICERS



The following members were elected to office in the New York State Association of Architects at the 1969 Convention.

President, Albert Melniker, AIA

President-Elect, Herbert Epstein, AIA

Vice President, Robert W. Crozier, AIA

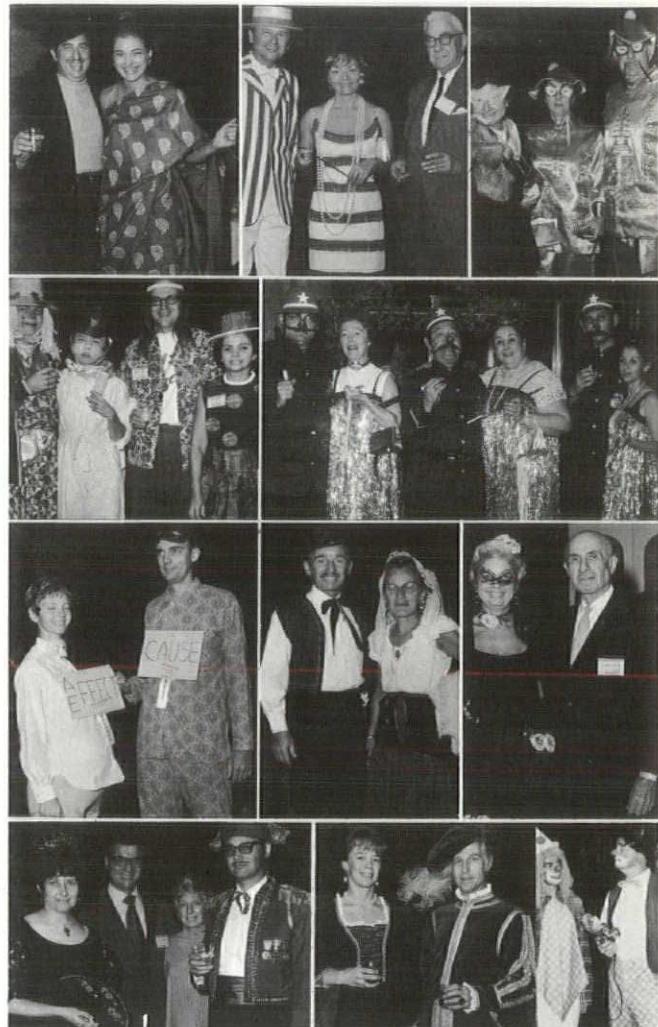
Vice President, Samuel Scheiner, AIA

Vice President, Francis E. Hares, AIA

Secretary, E. Gilbert Barker, AIA

Treasurer, Walter A. Rutes, AIA

LAST YEAR WE GAMBLED, THIS YEAR WE GAMBOLED



Top left, 'Twould be interesting to know what the old goat said. Milt Petrides and Nancy Goodwin. Middle, Joe and Zdenka Fuller and Sam Hertz. (Zdenka, if this isn't spelled right, send us some consonants). Right, Mao Tse Melniker and Sing-Song Girls. Second row left, The costumes of the couple with Hyman and Sheila Kramer are so good that no one so far has identified them. Right, Mr. & Mrs. Harry Soled amidst some of the Brooklyn gang which won "Best in Show." The guys all came as Keystone Kops and the dolls as flappers. Third row left, A natural asset is parlayed into the "Most Original" prize by Mr. & Mrs. Paul Heuber. Center, Mr. & Mrs. Morris Rothenberg "Basque" in their colorful costumes. Right, Bob Kaplan doesn't wear a costume but wins a prize anyway —Helen Schnelder. Bottom left, Mrs. Kronovet and Mr. & Mrs. Leo Kornblath vicariously enjoy Jerry Kronovet's libation. Center, Mr. & Mrs. Bill Downing gloat over winning an Honor Award and prize for "Most Beautiful" costume. Right, Ringling Brothers comes to town.

It's a far cry from the Brooklyn Chapter's Games o' Chance at the 1968 Convention to the Central New York Chapter's Beaux-Arts Costume Ball at this year's conclave at the Nevele, but both were great. I am sorry we didn't get pix of all the costume prize winners

but I guess even a photographer has to "take ten."

We have not been able to identify everybody in each picture. If you have been neglected please let us know. (P. S. this is just a gag to produce some interesting correspondence.) □

NYSAA 1969 CONVENTION PROFESSIONAL SEMINAR: THE ARCHITECT AS AN ENVIRONMENTAL PLANNER

Moderator—Frederick S. Webster, FAIA; Panelists—William J. Conklin, AIA; Lewis Davis, FAIA; Ulrich Franzen, AIA; Dr. Jonathan A. Freedman, Sociology Professor; M. Paul Friedberg, ASLA; Dr. Bernard Kaplan, Psychology Professor.

PANELIST KAPLAN: One of the basic questions relating to architects and planners concerned with modifying the physical environment is why should one modify the physical environment? What benefit would it be to human beings? Is there any evidence, for example, that a beneficent physical environment is the optimal environment for human beings to grow up in? Is there any advantage to a malevolent physical environment? There might be certain advantages to a malevolent physical environment that don't exist in a beneficent environment. In any case, there is no concrete evidence that a beneficent environment is the best kind to have.

It is a paradoxical statement. Let me show you why I said it. Almost any psychologist would suggest that human beings develop only in the face of adversity; that the ideal environment for human beings is an adverse environment to fight against. Beneficent is almost analogous to return to the womb.

PANELIST CONKLIN: I'm not sure that there is an ample definition of a beneficent environment or a malevolent environment. What we really have to know is where inequality exists in our environment and what discrepancies exist in what society defines as a good environment.

The problem of our environment is the vast difference between what people's hopes are and what we have defined as being possible and what actually exists in the world in which most people live.

This is true in other societies and was in other times, and there may not have been an environmental problem. We can think about how the Navahoes live in their cave dwellings. They might have been substandard yet might have had a satisfying environment for a given group of people simply because there was not our present vast discrepancy between technological possibilities, aspirations, hopes, and reality itself. In that sense the problem was not so severe as it is today, and I think the inequality in environments between areas which are privileged and areas which are under-privileged is the real nature of environmental problems today.

PANELIST FRANZEN: I guess the only things psychologists can really talk about are those that are measurable. There such things as advantages that cannot be measured, and I would like to submit that really the sort of consumer research attitudes toward what the people may or may not want is really not what an architect is at all concerned with.

Architecture all through history has always created

symbols, and I don't want to bore everyone with symbols. I want to talk in this connection about something very specific. Those who participated in the Moratorium in New York the other day went to various selective places. This was an uprising of the people wanting to express their very strong feelings, and effectively so. Where did they decide to assemble? They could have decided to assemble in Times Square, which is a kind of medium average of maybe what everybody might want. They could have assembled in their favorite neighborhood ghetto or in some other setting of that sort.

The places that were chosen and almost instinctively chosen were Rockefeller Center, St. Patrick's Cathedral and the United Nations Plaza.

I think this has meaning, and I think these places were chosen because in one way or another Rockefeller Center is really the only urban setting that represents in an aspirational sense something to the people. And I'm sure St. Patrick's was chosen because it was obviously the Cathedral Square, extraordinary even today seen in the historical sense. And of course the UN represents the hopes, again, of people on an aspirational level. These things have significance.

PANELIST KAPLAN: Could I defend myself against the sudden attack against psychologists? I was not talking about measurable items. I should mention I'm the co-author on symbol formation and my major area is symbolization and representation of the environment.

PANELIST FRIEDBERG: Professor Kaplan brought up the idea of a benevolent or malevolent environment not so much in terms of the few isolated advantages of each; it was to determine if there was information which was non-physical; not oriented toward physical design necessarily which would be of benefit to us as physical designers.

I think it is more easily explained by an example. In New York, in an urban renewal, side by side, are Park Village and Douglas Houses. One is low income and the other considered middle or upper income, and in discussing this with the managers of the two projects, the basic problems of each project arose. In Park Village, control and managerial problems were involved with exterior forces as in a basically depressed area. In Douglas Houses the control problem was internal and based on the fact that the majority of people were poor, living together, and their problems basically were caused by the difficulties in their economic position.

I think before we can talk about what we want to do with environment, we have to categorize, or at least identify, who it is we are going to create the environment for and what are the specific needs which are not necessarily physical, because in the final analysis the problems for the people to be housed are substantially different.

PANELIST DAVIS: I just looked up the title of this symposium and it's "The Architect as Planner for the Human Environment." The first thing that came to my mind is why do we have to add the word "human" since the only people that seem to be planning the environment are humans for humans. I don't speak as a naturalist—we seem to be eliminating most other species of life other than humans and we're doing a good job on humans. Historically that's all man has been able to do except for an elite corps that have been able to live in cities with beautiful vistas, trees and sky—commodities that are fast losing their importance only because we don't have time to enjoy them.

As an individual among a group of individuals who are involved in contributing some form of pleasure in spaces where one walks through to go from one place

to another, really whom do we respond to and what do we respond to? What's being asked of us? Early in the 19th century Baron Houseman had a clear mandate: Napoleon the Third said: "Design a new Paris." He didn't have to consider anything else; he was not directly involved with people, just directly involved with his client and that's the only contact with life that he had.

Today obviously our role is completely changed and because it is changed I really wonder are we a holding action; are we trying to go up on the down escalator? What's our role in life today? Are we just proving to everyone that if we're not irrelevant now, we soon will be?

PANELIST FREEDMAN: It's always hard to talk to a group of professionals in another field because you're not sure that some of the language gets across. From what I hear from the panel so far, I would say that we agree that physical environments have social meaning of one kind or another, which is a fairly simple statement, but I think it is a statement too often forgotten.

One of the problems is around the nature of the future, and I think one of the problems is that it is difficult to use the past and present as predictive forces toward the future. There have been too many innovations, both technological and social, to make this easily done but perhaps one of the functions of a new kind of planning for our physical environment is to provide certain kinds of social guidance through kinds of physical environments.

There is a plaza in a community I know where people meet very frequently. Maybe because of these meetings a lot of other social things took place for that community, and perhaps one of the functions of "architecture of the future" is to talk about the relationship between the physical and the social, and perhaps this is an area that is very much neglected.

MODERATOR WEBSTER: Mr. Franzen, you said something a while ago that could have been misinterpreted. At the previous seminar it was said the architect should be designing for the users, not the owners. This is a little difficult to do in the present state of things, but you said the architect should not have to be concerned with the consumer research approach—you were talking about the specifics our psychologist mentioned, but certainly that could be misinterpreted.

PANELIST FRANZEN: Probably everyone on the panel disagrees with me. Architects by the nature of their profession happen to know a great deal about people. Architects, however, are also paranoiacs or megalomaniacs.

I think the architect, or anyone who tries to make architecture is a subverter by nature. We all struggle with programs, and the programs are written by authorities—by housing authorities, school boards, state universities, and what-have-you. Wherever you are, you find that in most every case these things really squeeze out the things that everyone today is concerned with. Architects are constantly struggling to create something for people, in spite of the programs, in spite of the lack of money. Why do we sit and flagellate ourselves with the illusion that we are in charge, yet buildings and groups of buildings look as they do? Look at the housing authority buildings for the last 30 years. And we take responsibility for this! At best we are hired hands on a job that perhaps we should not have taken in the first place. In the final analysis the lives of many people who use buildings are legislated: in terms of budgets for housing that Congress allows; by the puritanical ethics that housing authorities put in their standards as to how poor people should live and where the baby's

crib should be. They feel poor people should have their baby's crib in exactly one place, and if you don't put it there they won't approve your plans. I'm sure every architect has experience of this sort.

I want to make the point that I think there are tremendous insights to be gained, but the real message today is not more technology, or more social science, or more psychology. The message really is power to the people, and the message also is not more technological civilization but a more humanistic civilization. Every young person is not talking about computers, helpful as they might be; they are talking about a beautiful life. Somewhere along the line we ought to put ourselves in a position of speaking with some conviction in those areas that we do know little bit about.

PANELIST DAVIS: I think we are missing some people from this panel because we architects are at the low end of the totem pole. Where are the major decisions in human environment really made? They are made in Washington, in Albany. I feel there is a void at this table, and the void is the major policy makers of our environment. We are just responding, we dress up the basic decisions that are made after they are handed down to us. These decisions are made in Congress, they are made in State assemblies—on roads, watersheds, areas for recreation, pollution and so forth. The money that is designated for housing, for schools, for education, for health, all of these things are pre-determined and we have absolutely no involvement in them. We are really working with both hands tied behind our backs. We are responding in the best way we can but don't have any cards going for us.

I think most of the panelists have been in education, one way or another, and I know I tell my students, "You want to make changes: Go into politics, go right down to Washington and become a Congressman. If you stay where you are, you are a pitiful small voice once you get your shingle and become a practitioner."

MODERATOR WEBSTER: At this morning's seminar the panelists addressed themselves to pre-design. None of the members of the panel were present for this morning's session, but the points were made then that the architect should be in on some of these pre-design decisions which have been bothering Franzen and the rest of us. How we get to do that is another one of our problems.

PANELIST FREEDMAN: One of the things that concern me is a note of fatalism about all these decisions being made and architects not being involved, and I think of the phrase, "power to the people". It becomes the nature not only of architects but other professionals to start fighting for other things they believe in concerning planning and physical environment. One of the things we will have to do, seeing our society in great crisis, instead of passing the buck and letting George do it, is pitch in and fight. There has to be dedication to fight for certain kinds of standards and certain kinds of decision.

PANELIST FRANZEN: Isn't the question discussed earlier today: where are the architects to fight? And I think this is really all I'm trying to talk about—priorities or the areas of action where we can be effective.

I completely agree with what Lew Davis said. This is only symptomatic to me of the lack of decision as to what we are and what we are not.

I was in Washington a few weeks ago at the Octagon, and to my great surprise I brushed shoulders with one or two of the people who are writing these new bibles on how we are going to live and what to do as professionals and sort of projecting answers. And yet a very knowledgeable member of the AIA board said this

morning he didn't know what the future would be. In any event they are projecting answers in areas that I think are out of the reach in terms of where the architect is today. For instance, we should push legislative programs in Congress to liberalize housing standards—to see housing not as people storage, but to see it as community developments, to permit the people and the communities concerned to use the Federal programs—but the people have the opportunity and let the Federal government decide the budget. All this is legislated from the top, telling us how to live. So the top is where the pressures have to be exerted. We are a relatively small profession but we can go into political action, not the local area necessarily, but as experts in the top level, to get some of these laws rewritten.

PANELIST FREEDMAN: Let me add one thing. This is not just a crisis for architecture. This is now a crisis for every profession that I've been in contact with recently. This discussion echoes the discussion I heard in librarianship and in social work; I've gotten it from deans of schools of pharmacy and from college presidents. This is a very basic kind of thing we are talking about. This whole aura of powerlessness of the people extends far beyond professional sociologists and architects.

MR. CONKLIN: It would be a great mistake if we think of ourselves as acting primarily through our professional society. I don't think that will give all the answers to the problem. As architects we do have a unique position perhaps in relationship to other professions because we do have possibility of contacting enormous groups of people. Certainly this is true in the fields of housing and other kinds of neighborhood opportunities. I strongly suspect beneficial changes will occur when large groups of people understand the problem and act in a coordinated way. I don't think we will solve the problem through our professional society acting alone.

We have been involved in a community in East Harlem, Metro North, functioned as architects and planners for portions of that community. A meeting a few days ago produced a result that very much surprised me as a professional. It was an instance where the community made the determination entirely. The decision was to tear down a section of a block not engaged in rehabilitation and to engage in new construction. As well as we could judge from the information available to us, this meant that rents would be considerably beyond those that would be possible for the group that made the decision. Their decision was a very astonishing one—in a sense almost voting themselves out of existence. They voted for what in the end has to be interpreted as a higher standard of environment than seemed to be provided under existing government programs. They refused to limit themselves to what is available under government programs.

I'm not at all sure what we're going to do with this decision; it was a most instructive one to us in terms of the aspirations of a community. In no way were they opting for the kind of housing—all-alike kind of environment—they now have. They were opting for the kind of environment publicity throughout the world has described as the good environment. How it is to be accomplished is not clear. They have rejected a building under the current rules. This is a surprising but in the end very admirable and courageous decision on the part of a group of people: just an example of the fact that involvement with the community is not just that of giving on the part of the professional but certainly one of learning and achieving a great deal of new insight and information along with it.

PANELIST DAVIS: I'd like to cite another example.

This is the "rehab" on 114th Street in New York City. The original conception was not only to rehabilitate the inside spaces but to rehabilitate the outside spaces. Today we're lucky to get the building up, and after that everything else disappears. The whole success depends not only on rehabilitating the apartments but taking the contiguous spaces and making them into green areas or open spaces and to eliminate the garbage-dumping threat that it poses. This was never done. The only quality of life that was changed—they had a clean toilet and new kitchen.

It may not be enough. The people that live on the block are not totally satisfied. They perhaps would be satisfied if ten per cent more had been added to the budget so that as they approached their homes they would have a new awakening, a sense of pride.

The program was administered by legislative code and the architect obviously had nothing whatever to contribute to that because it really is a mandate.

PANELIST KAPLAN: It is obvious from this discussion that you have come to the recognition that the architects can't do anything as architects. I think it is quite clear the issue becomes a political one, and first of all you have to have the sociological analyst, who makes the decision. The architect can only function as part of the larger group within the community to alter the priorities and distribution of monies in the community. As a professional organization, you don't have as much power or importance as the military-industrial complex for the allocation of money. It becomes a question of alerting the architects as citizens—not only as architects—but in a profound, alert sensibility of everybody in the community to what is going on in the U. S. with regard to fiscal and environmental priorities. □

PROPOSED LEGISLATION TO AUTHORIZE THE FORMATION OF PROFESSIONAL SERVICE CORPORATIONS.

INTRODUCTION

A bill (S-486C) was passed by the New York Senate in the last session that would authorize accountants, architects, dentists, doctors, engineers, lawyers, optometrists, pharmacists, veterinarians, and other professionals, who are duly authorized to practice their profession in New York, to form a professional service corporation for the practice of their profession so as to obtain the Federal tax benefits now enjoyed by corporate employees.

This bill, which was introduced by State Senator Anthony B. Gioffre of Westchester, was also reported out by the Rules Committee of the Assembly, but was not passed by the Assembly. It is expected that Senator Gioffre will introduce a substantially similar bill in the next session.

Forty-seven other states now have statutes authorizing professionals to form corporations or associations for the practice of their professions.

I. REASONS FOR AUTHORIZING INCORPORATION

The enactment of legislation permitting professional persons to incorporate would permit such persons to obtain Federal tax benefits now available to employees of a corporation, and thereby encourage professional persons to enter and remain in private practice so as to meet the growing needs of the general public for qualified professional services.

Pension and Profit-sharing Plans. The Internal Revenue Code (H.R. 10, the Keogh bill) does permit members of a professional partnership, on a limited basis, to establish qualified pension and profit-sharing plans to which contributions on behalf of the partners may be made and deducted in the year of contribution. Qualified pension and profit-sharing plans established by corporations, however, receive considerably more favorable tax treatment than the same plans established by professional partnerships:

a. Generally, a corporation may make deductible contributions annually to a qualified pension plan in amounts actuarially neces-

sary to fund the benefits to be provided at retirement of its employees, and to a profit-sharing plan in amounts based on profits of the business up to 15 percent of total compensation of covered employees, provided that the aggregate deductible contribution to pension and profit-sharing plans may not exceed 25 percent of such total compensation. A partnership may not make deductible contributions to a qualified pension or profit-sharing plan on behalf of any partner in an amount in excess of \$2,500.

b. A corporate plan may provide that an employee forfeits all or a part of what has been contributed for him unless he has been employed a specified period of time. A partnership plan covering owner-employees must provide that contributions for all employees are non-forfeitable when made, thus substantially increasing the costs of such plan for the partnership.

c. In the case of a corporate plan, if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's death or other termination of employment, the taxable income attributable to such distribution may be treated as long-term capital gain. In the case of a partnership plan, lump-sum distributions to partners are taxed as ordinary income, subject to an averaging provision.

d. Under a corporate plan, distribution of benefits may generally be determined to accommodate each employee's needs. Under a partnership plan, distributions of benefits are required to begin, in the case of most partners, not later than at age 70½.

e. Distributions from a qualified corporate pension or profit-sharing plan made after an employee's death to any beneficiary (other than his executor) are exempt from Federal estate tax to the extent attributable to contributions of the corporate employer. Also, the irrevocable designation of any beneficiary to receive benefits from a qualified corporate plan payable by reason of the employee's death does not constitute a gift for purposes of the Federal gift tax, to the extent the benefits are attributable to contributions of the corporate employer. Such estate and gift tax exclusions are not available to partners.

Other Tax Considerations. A corporation may adopt a group accident and health plan, providing for disability income, hospitalization benefits, and major medical benefits for its employees, the corporate contributions for which are deductible by the corporation and not taxable to the participants. Partners must include the amount of partnership contributions made on their behalf in their gross income. A corporation may also adopt a plan providing for payments to employees who become sick or disabled, such payments being excludable by each employee from gross income up to \$100 per week. Such exclusion is not available to partners.

A corporation may adopt a group-term life insurance plan, the corporate contributions for which are deductible by the corporation and not taxable to any participant for coverage up to \$50,000. Partners must include in gross income the amount of partnership contributions made on their behalf.

Beneficiaries or the estate of any corporate employee may, upon certain conditions, exclude from income up to \$5,000 paid to them on behalf of the corporation (including distributions from qualified plans) by reason of the death of such employee. Such death benefit is not available to beneficiaries or the estate of partners.

Position of the Internal Revenue Service on Incorporation by Professionals. Following extensive litigation in which it lost several test cases, the Internal Revenue Service in TIR-1019 (August 8, 1969) announced that organizations of lawyers, doctors and other professional people organized under state professional association acts generally will be treated as corporations for tax purposes. Accordingly, it appears almost certain under present law that a professional service corporation organized and operated under the bill proposed for New York would be treated as a corporation for Federal income tax purposes.

Problems of Incorporation From a Tax Viewpoint. There are several tax problems and disadvantages that may result from incorporation of a professional firm, including, for example, the impact of the corporate tax and possible taxes on unreasonable accumulations. It is not the purpose of this memorandum to try to evaluate whether it would be generally desirable to incorporate under the bill if it were enacted. This is a matter that each firm would have to decide after considering its own circumstances. The bill if enacted would merely make this choice available to professionals just as it is available to all other taxpayers.

II. ANALYSIS OF THE PROPOSED BILL

The bill follows substantially the form of similar acts in several other states, with certain changes to correlate with existing New York law.

Incorporation. The bill authorizes two or more individuals who are duly licensed, registered or otherwise legally authorized to render the same professional service in New York, to organize and become shareholders of a professional service corporation under the provisions of the Business Corporation Law for the sole purpose of rendering the same professional service (except that one or more engineers and one or more architects, or one or more engineers and one or more land surveyors, may organize and be-

come shareholders in the same corporation). The bill to be introduced in the next legislative session may be changed to enable a single practitioner to form a professional service corporation; thirty-six states presently permit single practitioners so to incorporate.

The certificate of incorporation of a professional service corporation must meet the requirements of the Business Corporation Law and, in addition, must include (1) the name of the profession to be practiced and (2) the names and residence addresses of the incorporators and all original shareholders, directors and officers. Since all incorporators, shareholders, directors and officers of the professional service corporation are required to be duly licensed, registered or otherwise legally authorized to practice their profession in New York, the bill requires that certificates from the appropriate state regulatory agency, certifying that each of such persons is so duly authorized, be filed in the Department of State together with the certificate of incorporation. A copy of the certificate of incorporation is also required to be filed with the appropriate regulatory agency. The corporate name of a professional service corporation must contain the full or last names of one or more of the shareholders, living or deceased, or the name of an existing partnership two-thirds of whose living partners become shareholders of the professional service corporation, and must end with the words "professional service corporation" or the abbreviation "P.S.C."

Regulation. Under Section 211 of the Education Law the board of regents supervises the practicing of the professions of medicine, physiotherapy, dentistry, dental hygiene, nursing, veterinary medicine, pharmacy, optometry, podiatry, chiropractic and certain other professions. The Education Law prescribes, for each profession therein described, penalties and procedures in disciplining partnerships, and provides for revocation or annulment of certificates of registration. Accordingly, the bill provides that every professional service corporation, other than a professional service corporation authorized to practice law, will be under the supervision of the board of regents and be subject to disciplinary proceedings and penalties, in the same manner and to the same effect as is provided with respect to individuals. Similar corresponding provisions with respect to professional service corporations authorized to practice law are set forth in the bill. Further, the bill states that the relationship of an individual to a professional service corporation, whether a shareholder, director, officer or employee, shall in no way modify or diminish the jurisdiction over him of the applicable state agencies or authorities.

Internal Procedures and Operations. The bill provides that the other provisions of the New York Business Corporation Law shall be applicable to professional service corporations except to the extent that such provisions are in conflict with any of the provisions of Article 15.

A professional service corporation is prohibited under the bill from engaging in any business other than the rendering of the professional services for which it was incorporated, except that it is permitted to invest its funds in real estate, mortgages, stocks, bonds, or any other type of investments, and to own real or personal property necessary for the rendering of professional services.

Several provisions of the bill are intended to ensure that professional service corporations render professional services only through qualified members of the professions and are in fact controlled only by qualified members. No professional service corporation may render professional services except through its officers, employees, and agents who are duly licensed, registered, or otherwise legally authorized to render professional services in New York (except that the term "employees" for such purposes does not include secretaries and other assistants not usually considered to be rendering professional services to the public for which authorization is required). Only duly authorized members of the professions may be shareholders of a professional service corporation; only shareholders may be directors and officers of a professional service corporation; and to provide a means of supervision of such requirements, each professional service corporation must furnish to the appropriate state regulatory agency an annual statement listing the name and address of each shareholder, director and officer of such corporation and certifying that all such persons are duly licensed, registered or otherwise legally authorized in New York to render the same professional service as such corporation.

If any officer, shareholder, agent or employee of a professional service corporation becomes legally disqualified to render professional services within New York, he must sever all employment with, and financial interest in, such corporation forthwith. A professional service corporation must, by provision made in its certificate of incorporation, in its by-laws, in a private agreement, or otherwise, purchase the shares of a deceased shareholder or a shareholder no longer qualified to own shares in such corporation within ninety days after the death or disqualification of the shareholder. Shareholders of a professional service corporation are prohibited to sell or transfer their shares except to another individual eligible to be a shareholder and approved, at a shareholders meeting, by such

proportion, not less than a majority, of the outstanding shares as may be provided in the certificate of incorporation or in the by-laws.

Limitations of Liability. As applied to professional service corporations, the bill would modify in two respects the common law rule that shareholders of a corporation do not have personal liability as such for corporate acts and indebtedness: (1) a shareholder of a professional service corporation would be personally responsible for any negligent or wrongful acts or misconduct committed by such shareholders, or by any person under his direct supervision and control, while rendering professional services on behalf of such corporation; and (2) all of the shareholders of a professional service corporation would be jointly and severally liable for all negligent or wrongful acts or misconduct of shareholders or employees of such corporation while rendering professional services on behalf of such corporation, except during such periods of time when such corporation maintains professional liability insurance in an amount not less than \$100,000 plus \$10,000 for each shareholder in excess of one shareholder. To ensure that the identity of the person performing the professional services is disclosed, the bill would require that all reports, records and other papers made or issued by a professional service corporation bear the signature of the individual professionals who prepare them.

Amendment of New York Franchise Tax. Subdivision 1 (a) of Section 210 of the Tax Law provides that the corporate franchise tax shall be the greater of four computations set forth therein, the third one being a tax computed at the rate of 7 percent on 30 percent of the taxpayer's entire net income plus salaries and other compensation paid to the taxpayer's elected or appointed officers and to every stockholder holding in excess of 5 percent of its issued capital stock minus \$15,000 and any net loss for the reported year, subject to certain modifications. The purpose of such third alternative computation of the New York franchise tax, which is to prevent tax avoidance by the distribution of profits in the form of excessive salaries to officers and 5 percent owners, seems inapplicable to the situation of a professional service corporation, substantially all of whose earnings are generally derived from the performance of personal services of its officers and owners. Accordingly, the bill specifies that the computation specified in clause (3) of said subdivision 1(a) shall not be applicable where more than 80 percent of the taxpayer's entire net income is derived from the personal services actually rendered by its shareholders in the practice of a profession and in which capital is not a material income producing factor. The bill does not provide for amendment of a corresponding provision of the New York City general corporation tax law, as such amendment would complicate consideration of the bill and would be within the province of New York City. □

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Statement Required by the Act of October 23, 1962, Section 4369, Title 39, United States Code, showing the ownership, management and circulation of EMPIRE STATE ARCHITECT Published bi-monthly at 50 E. 42 St., N. Y., N. Y. 10017. Statement filed Dec. 15, 1969.

The names and addresses of the Publisher, Editor and Managing Editor are: Publisher, Edwin B. Morris, Jr., 6 Overbrook Dr., Centerport, N. Y., 11721; Editor, Miriam B. Snibbe, 59 W. 71 St., N. Y., N. Y. 10023; Managing Editor, NONE. The owner is the New York State Association of Architects, a non-stock, non-profit New York State membership corporation, 411 Lexington Ave., N. Y., N. Y. 10017. Stockholders holding one percent or more of the stock are: NONE. The known bondholders, mortgages and other security holders are: NONE. No person, corporation, partnership, trust or other entity beneficially owns an interest amounting to one percent or more.

Average number of copies each issue during preceding 12 months. (The number of single issue nearest to filing date is given in parenthesis): Total number copies printed 3,500 (3,500). Paid circulation: A. Sales through dealers and carriers, street vendors and counter sales, NONE (NONE). B. Mail subscriptions 2,950 (2,950). Total paid circulation 2,950 (2,950). Free distribution by mail carrier or other means 350 (350). Total distribution 3,310 (3,310). Office use, left-over, unaccounted, spoiled after printing 190 (190). Total 3,500 (3,500).

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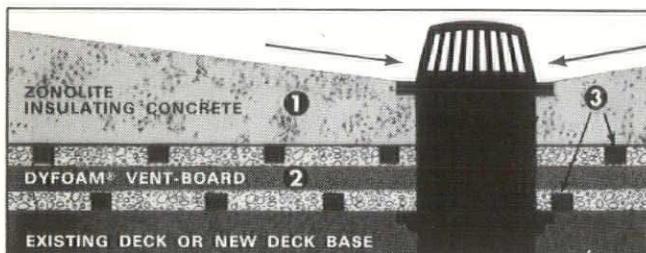
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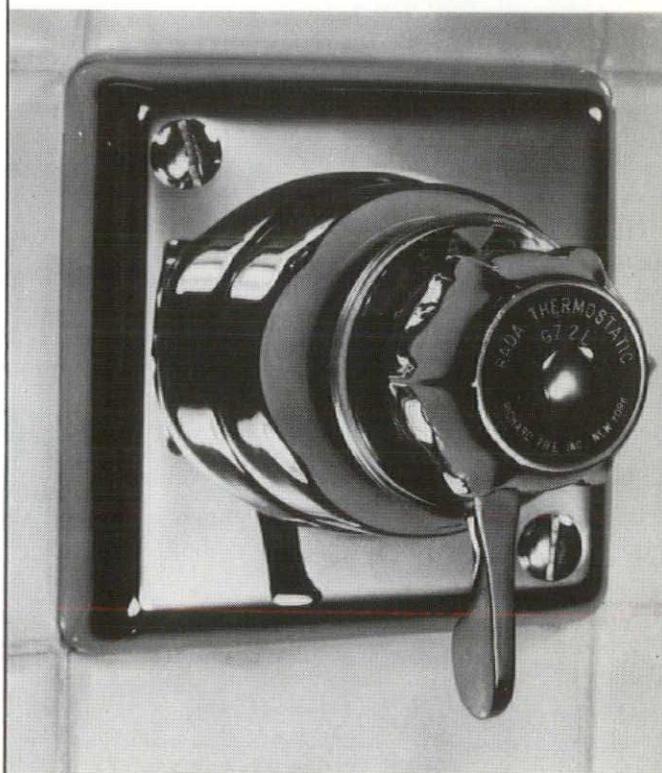
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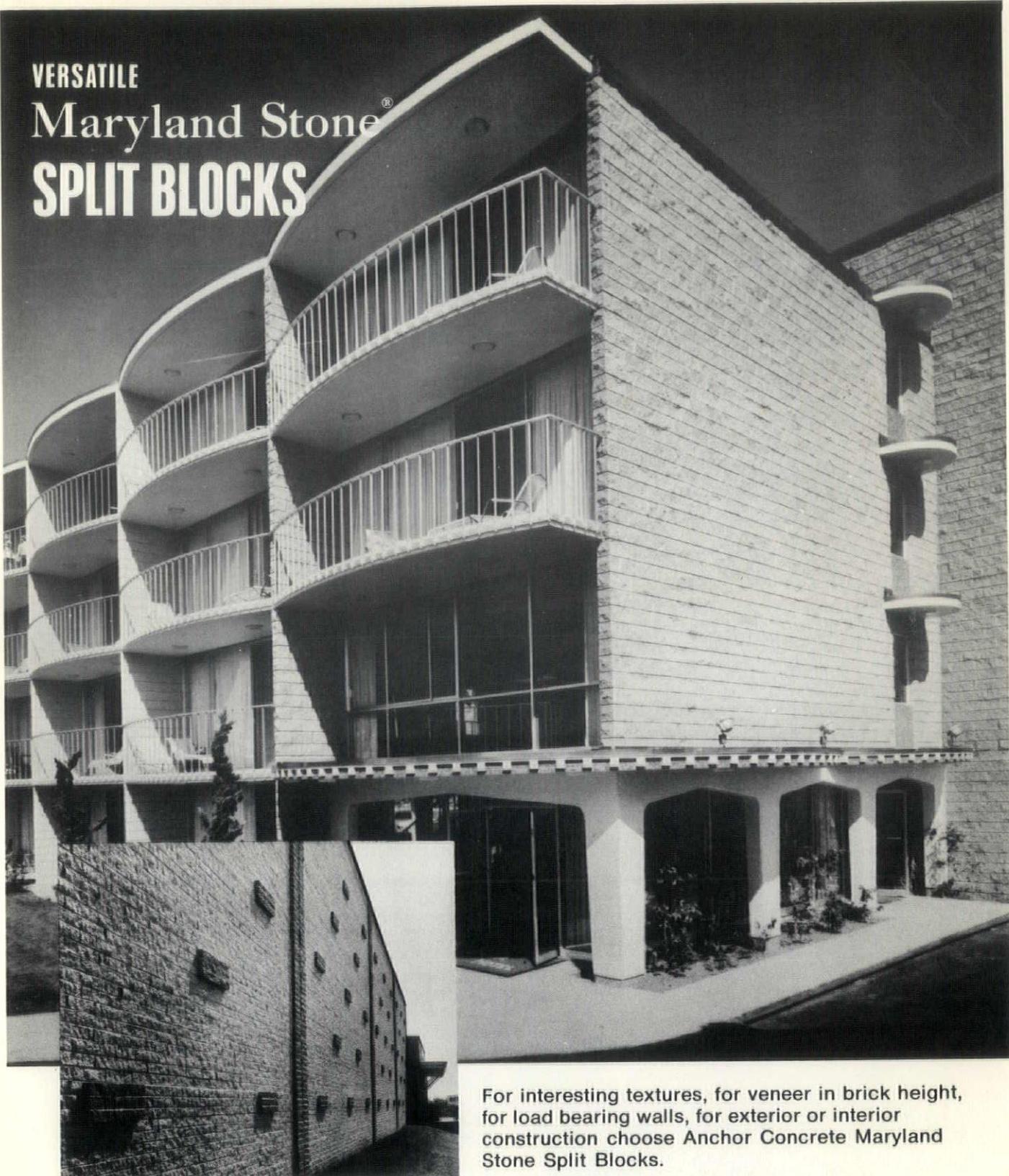
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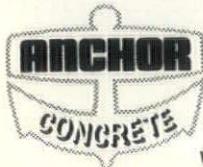
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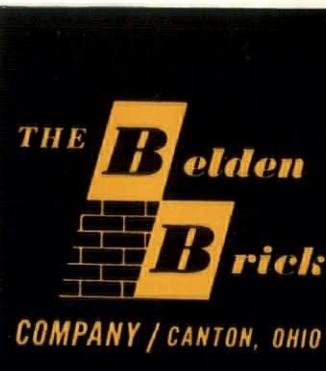
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